



FH  
[REDACTED]

**STATE OF WISCONSIN**  
**Division of Hearings and Appeals**

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In the Matter of

[REDACTED]  
[REDACTED]  
[REDACTED]

DECISION

BCS/168329

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**PRELIMINARY RECITALS**

Pursuant to a petition filed August 31, 2015, under Wis. Stat. § 49.45(5)(a), to review a decision by the Kenosha County Human Service Department in regard to Medical Assistance, a hearing was held on September 17, 2015, at Kenosha, Wisconsin.

The issue for determination is whether the Kenosha County Human Service Department (the agency) correctly ended BadgerCare+ benefits for Petitioner and her husband, effective October 1, 2015.

There appeared at that time and place the following persons:

**PARTIES IN INTEREST:**

Petitioner:

[REDACTED]  
[REDACTED]  
[REDACTED]

Respondent:

Department of Health Services  
1 West Wilson Street, Room 651  
Madison, Wisconsin 53703

By: Karen Mayer, Fair Hearing Coordinator  
Kenosha County Human Service Department  
8600 Sheridan Road  
Kenosha, WI 53143

**ADMINISTRATIVE LAW JUDGE:**

Mayumi M. Ishii  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. Petitioner (CARES # [REDACTED]) is a resident of Kenosha County.
2. On July 17, 2015, the Petitioner called the agency to complete a renewal for FoodShare and BadgerCare benefits. (Exhibit 2)

3. On July 28, 2015, the Petitioner provided the agency with two bi-weekly paystubs, one with a deposit date of July 16, 2015, showing gross income of \$322.83, and one with a deposit date of July 30, 2015, showing gross income of \$306.99. This works out to be:  

$$\$322.83 + \$306.99 = \$629.82 \text{ Total earned income}$$

(Exhibit 3)
4. Petitioner's husband receives \$1095.00 per month in Social Security Disability Income and Petitioner's daughter receives \$547.00 per month in Social Security Survivor's benefits. (Exhibit 3)
5. Petitioner's household consists of three people. (Exhibits 4 and 6)
6. On August 31, 2015, the agency sent the Petitioner a notice advising her that she and her husband would not be enrolled in the BadgerCare+ program, effective October 1, 2015, because the household was over the program limit. (Exhibit 6)
7. The Petitioner filed a request for fair hearing that was received by the Division of Hearings and Appeals on August 31, 2015. (Exhibit 1)

### DISCUSSION

BadgerCare Plus (BC+) is a state/federal program that provides health coverage for Wisconsin families. *BadgerCare + Eligibility Handbook (BEH) §1.1.1.*

Effective April 1, 2014, an adults must have household income below 100% the Federal Poverty Level, in order to be eligible for the BadgerCare+ health plan and all taxable gross income must be counted. *BEH §16.1.3* Social Security income is also counted. *Id.*; *BEH §16.5*

100% of FPL for a household of three is \$1674.17 per month. *BEH §50.1*

For BadgerCare+ purposes, only actual gross monthly income is used. Estimated amounts using the 4.3 weekly pay period or 2.15 bi-weekly pay period multipliers are NOT used. *Process Help §16.4.1*; see also *Ops Memo 01-01*

It is the agency's contention that Petitioner's household income exceeds 100% of the Federal Poverty Level and as such, she and her husband are not eligible for benefits.

In determining the Petitioner's household income, the agency did not include the Social Security income received by Petitioner's child, apparently because she was not expected to be required to file a tax return. "...If a group member is a child or tax dependent of a counted or eligible member within the same assistance group, his or her income is only counted if he/she is 'expected to be required' to file a tax return for the current year." See *BEH §2.8.2*

Thus, Petitioner's household income works out to be:

\$1095.00 SSDI for Petitioner's husband
+\$629.82 Petitioner's earned income
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\$1724.82 total monthly income

Petitioner's household income of \$1724.82 is over the 100% FPL income limit of \$1674.17 per month. As such, the Petitioner and her husband are not eligible for BadgerCare+ benefits.

**CONCLUSIONS OF LAW**

The agency correctly ended BadgerCare+ benefits for Petitioner and her husband, effective October 1, 2015.

**THEREFORE, it is**

**ORDERED**

That the petition is dismissed.

**REQUEST FOR A REHEARING**

You may request a rehearing if you think this decision is based on a serious mistake in the facts or the law or if you have found new evidence that would change the decision. Your request must be **received within 20 days after the date of this decision**. Late requests cannot be granted.

Send your request for rehearing in writing to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400 **and** to those identified in this decision as "PARTIES IN INTEREST." Your rehearing request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and explain why you did not have it at your first hearing. If your request does not explain these things, it will be denied.

The process for requesting a rehearing may be found at Wis. Stat. § 227.49. A copy of the statutes may be found online or at your local library or courthouse.

**APPEAL TO COURT**

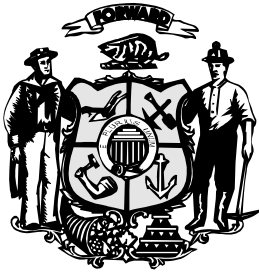
You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Health Services, 1 West Wilson Street, Room 651, Madison, Wisconsin 53703, **and** on those identified in this decision as "PARTIES IN INTEREST" **no more than 30 days after the date of this decision** or 30 days after a denial of a timely rehearing (if you request one).

The process for Circuit Court Appeals may be found at Wis. Stat. §§ 227.52 and 227.53. A copy of the statutes may be found online or at your local library or courthouse.

Given under my hand at the City of Milwaukee,  
Wisconsin, this 21st day of October, 2015

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\sMayumi M. Ishii  
Administrative Law Judge  
Division of Hearings and Appeals



**State of Wisconsin\DIVISION OF HEARINGS AND APPEALS**

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The preceding decision was sent to the following parties on October 21, 2015.

Kenosha County Human Service Department  
Division of Health Care Access and Accountability